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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/404,269	10/15/1999	TERRENCE J. O'HANLON	7415/OG062	8234

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805 THIRD AVENUE  
NEW YORK, NY 10022

EXAMINER

CAMPEN, KELLY SCAGGS

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 09/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/404,269

Applicant(s)

O'HANLON ET AL.

Examiner

Kelly Campen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 June 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 22-24, 30 and 31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 25-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other:  |

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## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Group I, claims 1-21 and 25-29 in Paper No. 6 is acknowledged. The traversal is on the ground(s) that the search of the art is the same. This is not found persuasive because the different groups have different recognized classification in the art and therefore are independent inventions.

The requirement is still deemed proper and is therefore made FINAL.

Claims 22-24, 30-31 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

### ***Specification***

The abstract of the disclosure is objected to because the abstract includes that which may be implied as well as purported merits. See below. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

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**The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.**

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined

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was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Brown (US5832448).

Specifically as to claim 1, Brown discloses a method for compiling health information, performed by a computer controlled apparatus by establishing a database for storing a plurality of health statuses of a plurality of users (col 1), wherein the database is centrally accessible (col 3-4), receiving data corresponding to a health statistic of the user (col 4), the data generated by a health monitoring device (col 4); determining a health status of the user from the health statistic(col 4-8); storing the health status in the database and updating a population statistic based on the health status and the plurality of health statuses(col 4-9).

Specifically as to claims 2-21, see above for claim 1.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C.

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122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 25-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Brown (US5832448).

Specifically as to claim 25, Brown discloses a method for submitting acoustical cardiovascular data to a central database by receiving a request to detect a cardiovascular signal of the user; initializing a cardiovascular monitoring device connected to a computer in response to the request; measuring the cardiovascular signal during a startup routine performed by the computer; receiving at least a portion of the detected cardiovascular signal of the user; and transmitting data based on the received cardiovascular signal to a central database for storage in a record corresponding to the user (see Brown, figure 6, and column 9).

Specifically as to claims 26-29, see above rejection for claim 25.

Claims 25-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Langer et al. (US5966692). Alternatively, Langer et al. also anticipate claims 25-29.

Specifically as to claim 25, Langer et al. disclose a method for submitting acoustical cardiovascular data to a central database by receiving a request to detect a cardiovascular signal of the user; initializing a cardiovascular monitoring device connected to a computer in response to the request; measuring the cardiovascular signal during a startup routine performed by the computer; receiving at least a portion of the detected cardiovascular signal of the user; and transmitting data based on the received cardiovascular signal to a central database for storage in a record corresponding to the user (see figures 2 and 5; see col. 1, lines 35-60, col. 2, lines 50-67).

Specifically as to claims 26-29, see above rejection for claim 25.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brown (US6246992) discloses a multiple patient monitoring system for proactive health management. Walker et al. (US6302844) disclose a patient care delivery system. Haller et al. (US2001/0051787) disclose a system and method of automated invoicing for communications between an implantable medical device and a remote computer system or health care provider. Brown (US2002/0019748) discloses a multiple patient monitoring system for proactive health management.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kelly Campen whose telephone number is (703) 308-0780. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 308-5397 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



ksc  
September 7, 2002



VINCENT MILLIN  
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